IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3279 OF 2006

Sachin Offset Company. ...Petitioner.
Vs.
Nagesh Kisanrao Fadtare & Ors. ...Respondents.
....
Mr. Sandeep Parekh i/b. India Law Alliance for the Petitioner.
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CORAM : DR.D.Y.CHANDRACHUD, J.

June 29, 2006.

P.C.

A reference to adjudication under Section 10 of the Industrial Disputes Act, 1947 was dismissed on 30th April 2005 by the Labour Court at Solapur since the workman and his Advocate were absent. The application for restoration has been allowed by the impugned order subject to the payment of costs of Rs.1,000/-. The Labour Court has considered the evidence recorded before it. It would appear from the finding of the Labour Court that the Advocate who used to appear on behalf of the Respondent was busy else where. It was, however, not shown as to whether the Advocate was busy the whole day. Be that as it may, the Advocate remained absent. Though the Respondent submitted that he was

carrying on some business from January 1999, the turn over of the business has not been brought on record, nor was there any cross-examination on that point. Having regard to all the facts and circumstances of the case, and particularly considering the fact that the Respondent was terminated from service after several, the Court held that it would be unjust to deny him an opportunity to present his case on merits. However, considering at the facts, costs has been awarded. On the balance, the exercise of the discretion of the Court would not warrant interference under Article 227 of the Constitution. The Petition is dismissed.

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